

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**  
Jeremy A. Richardson

**DEFENDANTS**  
Rock City Mechanical Company, LLC

**(b) County of Residence of First Listed Plaintiff** Fentress  
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

**(c) Attorney's (Firm Name, Address, and Telephone Number)**  
Jon E. Jones, Law Office of Jon E. Jones, P.O. Box 699, Cookeville, TN 38503; (931) 372-8771; Ronald C. Koksai, Butler, Vines & Babb, P.O. Box 2649, Knoxville, TN 37901; (865) 637-3531

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. Sec. 2000e-2

Brief description of cause:

employment discrimination based on national origin

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND** \$100,000-  
\$500,000-punitive; compensatory **JURY DEMAND:** ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY** Contemporaneously filed case of Van Natter v. Rock City Mechanical  
(See instructions): JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE

11/18/08  
FOR OFFICE USE ONLY

SIGNATURE OF ATTORNEY OF RECORD

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

**FILED**

U.S. DISTRICT COURT  
EASTERN DIST. TENN.

BY \_\_\_\_\_ DEPT. CLERK

CIVIL ACTION NO. 3:08-CV-472

Phillips / Guyton

## COMPLAINT

of that complaint as required by Title 29 U.S.C. § 626. No decision was reached by the EEOC and on August 22, 2008, the EEOC issued a Notice of Right to Sue (Issued on Request). This complaint is filed less than 90 days following the receipt of the Notice of Right to Sue. A copy of the complaint filed with the EEOC is attached as Exhibit "A" to this Complaint. A copy of the Notice of Right to Sue issued by the EEOC is attached as Exhibit "B" to this Complaint.

5. The acts complained of occurred in Morgan County, Tennessee, within the Northern Division of the Eastern District of Tennessee.

6. The plaintiff's date of birth is April 27, 1976. The plaintiff's national origin is the United States.

7. On approximately April 2, 2007, the plaintiff began working for the defendant as a journeyman sheet metal worker on the construction of a new Tennessee penitentiary at Brushy Mountain, Morgan County, Tennessee.

8. The construction project was paid for by the State of Tennessee and by the United States of America.

9. The defendant, Rock City Mechanical, was a subcontractor providing heating and air conditioning work for the project.

10. The defendant, Rock City Mechanical, employed more than 100 employees in the United States at all relevant times.

11. The defendant preferred sheet metal workers who were Hispanic. The defendant, however, also hired some sheet metal workers who were not Hispanic and who were born in the United States of America.

12. At all times, the plaintiff did his work in a competent and workmanlike manner.

13. The plaintiff's most recent rate of pay while he worked for the defendant was \$22 per hour.

14. On December 21, 2007, the defendant discharged a number of sheet metal workers including the plaintiff.

15. At the time he was terminated, the defendant retained some of the sheet metal workers on the job. Most, if not all, of the discharged workers had a United States of America national origin. Most of the sheet metal workers who were retained had national origins in Central American countries.

16. The defendant selected workers for termination based on national origin and retained disproportionately workers of Central American origin.

17. The defendant discriminated against sheet metal workers of U.S. national origin and in favor of sheet metal workers with Central American (Hispanic) origin.

18. During a portion of the time he was employed by the defendant, the plaintiff's foreman was Hispanic. In August 2007, the plaintiff asked this foreman for permission to go to lunch a few minutes early. This permission was granted. Despite this, when the plaintiff returned from lunch, he received a written reprimand for leaving work five minutes early for lunch.

19. Several days later, INS representatives came to the job site. The plaintiff's foreman and approximately 30 other employees of the defendant immediately ran from the job site.

20. Several days later, this foreman, and many of the other Hispanic workers who had fled the job site, returned. Many of these workers, including the foreman, returned using new names and identities. These individuals were not reprimanded for leaving the job site early or without permission.

21. At all times he was employed by the defendant, the plaintiff maintained excellent job skills and was proficient from both a technical and a reliability standpoint.

22. The plaintiff was selected for lay-off because his national origin was the United States of America and he was not Hispanic.

Violation of 42 U.S.C. § 2000e-2

23. At all times material herein, Title 42 U.S.C. § 2000e-2 of the United States Code was in full force and effect and prohibited discrimination in employment based on national origin.

24. The defendant's decision to terminate the plaintiff's employment was motivated, in substantial part, by the plaintiff's national origin.

25. At the time it terminated the plaintiff's employment, the defendant was fully aware that its action was a violation of federal law.

26. The defendant's national origin discrimination against the plaintiff was a willful violation of Title 42 U.S.C. § 2000e-2 of the United States Code.

27. As a direct result of his wrongful termination, the plaintiff lost wages and benefits. In addition, he experienced emotional distress.


WHEREFORE, the plaintiff sues the defendant for national origin discrimination and violation of Title 42 U.S.C. § 2000e-2 of the United States Code and asks the Court for an award of:

- A) Back pay and benefits, with prejudgment interest;
- B) Reinstatement (or front pay and benefits in lieu of reinstatement);
- C) Compensatory damages in the amount of \$100,000;
- D) Punitive damages of \$500,000; and
- E) Reasonable attorney's fees, expenses and costs.

The plaintiff demands a jury.

**JEREMY A. RICHARDSON**

By: 

  
Jon E. Jones, BPR #2848  
LAW OFFICE OF JON E. JONES  
P.O. Box 699  
Cookeville, TN 38503-0699  
(931) 372-8771 – phone  
(931) 372-8992 – fax

and

By: RCK by J&T  
Ronald C. Koksai, BPR #1570  
BUTLER, VINES & BABB  
P.O. Box 2649  
Knoxville, TN 37901-2649  
(865) 637-3531 - phone  
(865) 637-3385 - fax

Attorneys for the Plaintiff



**CHARGE OF DISCRIMINATION**

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

☐ FEPA  
☒ EEOC

**494-2008-01163**

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

**Jeremy Richardson**

Home Phone (Incl. Area Code)

**(931) 397-0388**

Date of Birth

**04-27-1976**

Street Address

**161 East Lane**

City, State and ZIP Code

**Jamestown, TN 38556**

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

**ROCK CITY MECHANICAL**

No. Employees, Members

**Unknown**

Phone No. (Include Area Code)

**(615) 251-3054**

Street Address

**2715 Grandview Avenue**

City, State and ZIP Code

**Nashville, TN 37211**

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

☐ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☒ NATIONAL ORIGIN  
☐ RETALIATION ☐ AGE ☐ DISABILITY ☐ OTHER (Specify below.)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

**08-01-2007**

**12-21-2007**

☐ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)).

I was hired by the above-named employer on April 2, 2007 as an "A" Laborer. In August of 2007, I had asked Jimmy Costalanta (Hispanic-Non American), Foreman, if I could go to lunch a few minutes early. He indicated that this was ok. When I returned, I was written up for leaving early. Several days after that the Immigration and Naturalization Service (INS) Representatives came to my worksite. My Foreman and approximately thirty employees immediately ran from the worksite. Days later, my Foreman and many of these Hispanic-Non American workers returned to the job, using new names. None of the workers received a write-up for leaving early when INS arrived. On December 21, 2007, I was discharged.

I was informed that I was discharged because the workload was declining. I later found out that only American employees were being selected for layoff and discharge. The Hispanic Non-American workers were not laid off or discharged.

I believe that I have been discriminated against because of my national origin, American, in violation of Title VII of the Civil Rights Act of 1964, as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - When necessary for State and Local Agency Requirements

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE  
(month, day, year)

Filed 11/20/2008 Page 8 of 9

**EXHIBIT**

**A**

Date

Case 3:09-cv-00092 Document 1

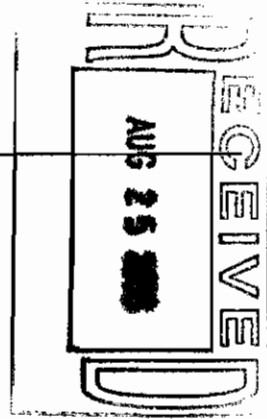
Charging Party Signature



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**  
**NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)**

To: **Jeremy Richardson**  
**161 East Lane**  
**Jamestown, TN 38556**

From: **Nashville Area Office**  
**50 Vantage Way**  
**Suite 202**  
**Nashville, TN 37228**


☐

On behalf of person(s) aggrieved whose identity is  
**CONFIDENTIAL (29 CFR §1601.7(a))**

EEOC Charge No.

EEOC Representative

Telephone No.

**494-2008-01163**

**Cynthia D. Lamar,**  
**Investigator**

**(615) 736-2104**

*(See also the additional information enclosed with this form.)*

**NOTICE TO THE PERSON AGGRIEVED:**

**Title VII of the Civil Rights Act of 1964 and/or the Americans with Disabilities Act (ADA):** This is your Notice of Right to Sue, issued under Title VII and/or the ADA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII or the ADA **must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

☐

More than 180 days have passed since the filing of this charge.

☒

Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.

☒

The EEOC is terminating its processing of this charge.

☐

The EEOC will continue to process this charge.

**Age Discrimination in Employment Act (ADEA):** You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, **the paragraph marked below applies to your case:**

☐

The EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice**. Otherwise, your right to sue based on the above-numbered charge will be lost.

☐

The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

**Equal Pay Act (EPA):** You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

**Sarah L. Smith,**  
**Area Office Director**

**AUG 22 2008***(Date Mailed)*

Enclosures(s)

cc: **ROCK CITY MECHANICAL**  
**2715 Grandview Avenue**  
**Nashville, TN 37211**

**Jon E. Jones**  
**P.O. Box 699**  
**Cookeville, TN 38501**

